IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 36167 of 2000(E)
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PETITIONER:
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M/S.NIRAPARA ROLLER FLOUR MILL (P) LTD.,
INDUSTRIAL NAGAR, CHANGANASSERY,
PIN.686106 REP. BY ITS DIRECTOR,
SRI.XAVIER CHACKO AS AUTHORISED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.ANIL THOMAS(T)
SMT.K.V.RESHMI

RESPONDENTS:
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THE KERALA STATE CIVIL SUPPLIES CORPORATION
LTD., REP. BY MANAGING DIRECTOR, P.B.NO.2030,
MAVELI BHAVAN, GANDHI NAGAR, KOCHI-682035.

BY ADV. SMT.MOLLY JACOB,SC,SUPPLYCO

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.61639/2000 IN O.P. NO.36167/2000

DISMISSED:

14.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF COMMUNICATION DT.18.9.97.

P2: TRUE COPY OF INVITATIN TO TENDER DT.5.10.98.

P3: TRUE COPY OF COMMUNICATION DT.19.12.98.

P4: TRUE COPY OF PROCEEDINGS DT.28.6.97.

P5: TRUE COPY OF COMMUNICATION DT.23.7.99.

P6: TRUE COPY OF PROCEEDINGS DT.7.12.99.

P7: TRUE COPY OF COMMUNICATION DT.27.10.99.

P8: TRUE COPY OF PROCEEDINGS DT.28.2.2000.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.36167 of 2000

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Dated this the 14th day of March, 2007.

JUDGMENT

The petitioner is challenging demand of penalty for supply of Atta for ration distribution which contained moisture in excess of prescribed limits. Respondent is a Government of Kerala undertaking with which petitioner had contract for supply of commodities conforming to the standard prescribed. The impugned proceedings clearly show that the materials supplied by the petitioner contained excess moisture for which penalty is levied in accordance with tender conditions. If petitioner disputes allegation of excess moisture content, the matter could be decided only by taking evidence and therefore it cannot be settled in writ proceeding. The O.P. is therefore closed leaving freedom to the petitioner to settle dispute through civil suit or in arbitration, if contract provides for it.

C.N.RAMACHANDRAN NAIR
Judge

pms